



DHR AND MOUNTAIN STATES EMPLOYERS COUNCIL TEAM UP TO PROVIDE STATEWIDE STRATEGIC CONSULTING

BY JEFF SCHUTT

DIRECTOR, DIVISION OF HUMAN RESOURCES, DPA

The Division of Human Resources will be contracting with Mountain States Employers Council (MSEC) to provide statewide consulting services in the areas of strategic HR and business risk and loss control. These services will cover a wide range of areas such as conflict resolution, negotiation and persuasion, succession planning, HR metrics, consulting skills, business ethics in state government, and minimizing risk exposure and controlling loss.

The consulting contract will include a series of targeted workshops and a one-

day symposium that will be available to all state HR and risk management professionals at no cost to the individuals or agencies. While the final schedule is still being worked out with MSEC, we are planning to begin the workshops in mid-May and conclude by the end of June 2005.

In an age of fiscal constraints, HR must reinvent itself and face the challenge of demonstrating its return on investment by measuring how deliverables positively impact

Please see TRAINING, p. 4

THE GOVERNOR'S STAR AWARDS LUNCHEON



Thursday, May 12, 2005
at the Adams Mark Hotel Grand Ballroom
1550 Court Place, Denver

Please come out and support your
fellow employees as they are honored for their service to the State of
Colorado and its citizens.

\$35 per person
Reservations may be made at
<http://www.colorado.gov/dpa/dhr/STAR/criteria.htm>
and must be made by May 6th.

SLEEP PROBLEMS: PREVALENCE AND IMPACT ON EMPLOYEE PRODUCTIVITY

JENNIFER GLIDEWELL, MA
COLORADO STATE EMPLOYEE ASSISTANCE PROGRAM

What possible explanations do you consider when an employee's performance declines — family problems, financial difficulties, workplace conflicts? Sleep problems are a common but under-recognized contributor to declines in performance and productivity. Enhanced awareness of the role of sleep problems can increase the likelihood that an under-performing employee receives useful information and appropriate help to restore them to full productivity on the job.

Sleep deprivation results in health problems, decreased safety, and sub-optimal work performance. According to the National Sleep Foundation, approximately 40 million people in the United States experience chronic sleep difficulties, and another 20-30 million suffer intermittent sleep disorders. Shift workers are especially prone to disrupted sleep; in fact, surveys indicate these workers may sleep 7 hours less a week than those employees with 8-to-5 schedules. The business impact of sleep problems in lost productivity, sick leave, and medical expenses is estimated to be over \$100 billion annually.

Insomnia has an especially devastating economic impact on employers, and is a better predictor of absenteeism than age or job satisfaction. The familiar consequences of absenteeism include increased workload for co-workers, increased stress, increased accident rates, and decreased productivity. An employee dealing with sleep problems is generally absent three days a month, two more than employees who do not have sleep problems, costing employers close to \$5000 per year, per sleep-distressed employee.

In addition to increased absenteeism, employees suffering sleep disturbance may

experience irritability, decreased energy, memory problems, and confusion. Adequate sleep is vital to planning, organizing, problem solving, and effective response to crises; sleep problems impair essential cognitive skills, increasing risks in all spheres of life and work.

The negative effects of sleep problems on decision making processes, including impaired judgment and slowed reaction time, can run the gamut from minor to catastrophic. For example, the presidential commission that reviewed the loss of the Space Shuttle Challenger determined that a key ground-control flight manager had been on duty since 1 a.m. the morning of the launch, and the night before had gotten only two hours of sleep. The report concluded that “time pressure increased the potential for sleep loss and judgment errors and ... jeopardize[d] job performance...” (as cited in Mitler, Dement, & Dinges, pg. 583). Less dramatic but still significant to productivity and performance, poor sleepers compared to good sleepers are more likely to take more breaks at work, spend more time “relaxing” at work, and communicate less effectively with coworkers and supervisors.

Sleep problems may reflect poor sleep habits such as going to bed on a full stomach, consuming caffeine in the later afternoon or evening, consuming alcoholic beverages within an hour or two of bedtime, or doing paperwork in bed and thereby, the bed becomes a trigger for alertness. Domestic problems that turn the bedroom into a zone of tension and distress rather than relaxation and rest; or psychological and medical issues (e.g., clinical depression, anxiety disorders, hyperthyroidism, gastric reflux, sleep apnea) also lead to sleep

Please see SLEEP, p. 4

FMLA CORNER

BY JERRY WITTMER
FMLA COORDINATOR

Please share this information with FMLA Coordinators, payroll/benefits staff, and any others who work with the FMLA.

Pregnant Adult Child and FMLA

Findings from a recent First Circuit Court of Appeals case (Navarro vs. Pfizer) have raised questions about how that decision applies to state personnel system employees using FMLA protected leave for the care of a pregnant adult child. The court ruled that Navarro, an employee of the pharmaceutical giant Pfizer, could use FMLA protected leave to tend to a pregnant adult child.

Colorado is part of the Tenth Circuit that has not made a similar ruling. We are not bound by the decision of another circuit court and there are no plans to alter our rules. The State's policy and interpretation is that pregnancy of an adult child is not a qualifying condition, which is consistent with FMLA regulations, US Department of Labor's (DOL's) administrative rulings, and the American's with Disabilities Act (ADA).

The pertinent question is the definition of an eligible adult child. FMLA regulations define an adult child as "age 18 or older and incapable of self-care because of a mental or physical disability." FMLA regulations define incapable of self-care as active assistance or supervision to provide daily self-care in several of the activities of daily living or instrumental activities of daily living. Disability is a critical factor in determining if an adult child qualifies. FMLA defers to the ADA definition of disability, "a physical or mental impairment that substantially limits one or more of the major life activities of the individual." Pregnancy is a non-permanent condition of short duration, and therefore, specifically excluded as a disability (ADA technical assistance manual Section II).

Conclusions: Under FMLA and ADA, the pregnant adult child is not disabled. Therefore, the employee is not entitled to FMLA leave to care for the pregnant adult child.

Individual Liability for Alleged FMLA Violations

Brewer v. Jefferson-Pilot Standard Life Insurance Co. and Felicia Cooper, M.D.N.C., No. 1:03CV01161, Aug. 18, 2004

Elaine Brewer requested and was granted three weeks of FMLA leave to replace a lens implant, which required inpatient care and continuing treatment by a health care provider. At the end of the three weeks, Brewer's eye had not sufficiently healed and she did not return to work. The employer notified Brewer of her rights under the FMLA, and Felicia Cooper, the senior HR manager, spoke with Brewer to obtain the names of Brewer's health care providers. Cooper contacted the health care providers and asked them to complete medical certification forms to document Brewer's absences.

Two days after the requested FMLA leave ended and before receiving the completed forms, Cooper accused Brewer of lying about her medical condition and terminated Brewer for dishonesty and insubordination, even though Brewer indicated that she would be able to return to work shortly. On the fifth day after the requested leave ended, the health care providers gave the employer the completed medical forms that indicated that Brewer had been under medical care during this whole time period (three weeks and the additional days). Brewer sued Jefferson-Pilot **and** Cooper for alleged FMLA violations (e.g., contacting the health care provider directly).

Please see FMLA, p. 4

“FMLA Corner” continued from page 1

Jefferson-Pilot attempted to have Cooper removed from the lawsuit. In rejecting the attempt, the district court stated that Cooper was an employer as defined by the FMLA. The FMLA defines an employer as any person who acts, directly, or indirectly, in the interest of an employer to any of the employees of such employer.

Conclusions: The district court allowed the suit against Cooper to continue. The language of the FMLA indicates that supervisors and HR staff may be held individually liable for acts taken in the interest of employers.

If you have any questions, please contact Jerry Wittmer at 303-866-2523 or jerry.wittmer@state.co.us.

TRAINING, from p. 1

the bottom line – the State of Colorado is no different. This strategic initiative with MSEC marks the beginning of this transformation of state government HR and business risk and loss control functions.

This is an exciting opportunity for all of us and we are hoping that everyone working in these fields for Colorado state government will be able to take full advantage of these workshops and the symposium. Once we finalize the schedule with MSEC, we will be publishing the full schedule of topics, dates and meeting places.

SLEEP, from p. 2

problems. The Sleep Foundation’s web site at <http://www.sleepfoundation.org/> provides excellent resources and information on sleep that may be helpful for you or your agency’s employees. C-SEAP can provide information to workgroups or individuals on effective sleep management, as part of a stress management or wellness presentation, or as a free-standing topic for those with a particular interest in this area (e.g., shift-workers). C-SEAP can also provide professional, cost-free, confidential counseling to any employee dealing with personal or professional concerns including sleep and productivity issues.

References

Mitler, M. M., Dement, W. C., & Dinges, D., F. Sleep medicine, public policy, and public health. p 580-588. In *Principles and Practice of Sleep Medicine*, 3rd ed.

Stoller, M. K. (1994). Economic effects of insomnia. *Clinical Therapeutics*, Pages: 16, 5, and 873-897.

The Sleep Foundation, on the Net at <http://www.sleepfoundation.org/>.

COURSE SCHEDULE OF UPCOMING CLASSES

Professional



Development Center

1313 Sherman Street
Denver, Co 80203
Phone: 303-866-2439
Fax: 303-866-2021
Email: carolyn.gable@state.co.us

Leadership Development Program

This is a five-day, certificate-earning, advanced supervisory course that helps managers exceed their potential. Topics include:

- Building collaborative relationships
- Improving accountability;
- Defining vision and mission
- Adapting to change
- Refining leadership skills

Course fee: \$725

Location: Denver

Dates: May 10, 17, 24, 26, 31, 2005

Colorado Contract Management

The one-day course covers the essentials of state contract processing and management. It is designed for individuals with limited experience in drafting or administering contracts. Participants should have some exposure to purchasing rules and process. The training Topics include:

- Introduction to state contract management
- Personal services contracting
- Managing risk through terms & conditions
- Real estate contracts and leasing
- Controller review and approval
- Contract management and planning
- Business strategy, procurement, and the statement of work

Course fee: \$25

Location: Denver

Dates: June 9, 2005

Conflict Resolution

The swirling windmills of conflict are inevitable, why not have better tools? Join us as we spend a day learning, working and practicing together to constructively deal with conflict by learning to:

- Walk the conflict teeter-totter
- Generate those elusive options
- Understand what you bring to the conflict situation
- Move from positions to interests
- Use several active listening skills to be present and understand what is being said
- Use the Pinch Process when expectations are not met

Course fee: \$225

Location: Denver

Dates: June 22, 2005; Follow up half day on July 25th

FOR MORE INFORMATION OR TO REGISTER FOR CLASSES,
CONTACT CAROLYN GABLE AT **303-866-2439** OR CAROLYN.GABLE@STATE.CO.US.



DPA